

Memorandum

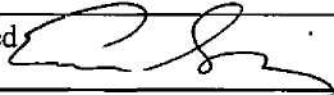
TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen
Sara L. Hensley
Larry D. Lisenbee

SUBJECT: SEE BELOW

DATE: 11-09-05

Approved



Date

11/15/05

Council District: 6

SNI: Greater Gardner

**SUBJECT: LEASE AGREEMENT WITH THE PENINSULA CORRIDOR
JOINT POWERS BOARD FOR FULLER AVENUE PARK AND ADOPTION OF
THE 2005-06 APPROPRIATION ORDINANCE AND FUNDING SOURCES
RESOLUTION AND AMENDMENTS IN THE SERVICES FOR
REDEVELOPMENT CAPITAL PROJECTS FUND IN THE AMOUNT OF
\$66,000.**

RECOMMENDATION

1. Approval of a month-to-month lease agreement with the Peninsula Corridor Joint Powers Board (JPB) for approximately 29,057 square feet of land to create a landscape buffer between Fuller Avenue Park and the JPB right-of way and allow the City to install and maintain a 6 foot tall chain link fence on a portion of the leased property.
2. Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-wide Redevelopment Fund):
 - a) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Fuller Avenue Park project (PSM 356#2) in the amount of \$66,000.
 - b) Increase the estimate for Earned Revenue by \$66,000.
3. Approval of an increase in the construction contingency in the amount of \$60,000, including the cost of the change order for fence installation, and an increase of the project delivery costs in the amount of \$6,000.

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BACKGROUND

The Fuller Avenue Park project consists of a 1.65-acre neighborhood strip park located on the north side of Fuller Avenue in three segments between Bird Avenue and Prevost Street. The site is partially developed with street trees and a low white railing fence between Bird and Delmas Avenues. The new project, which is currently in construction, consists of the installation of landscaping and irrigation, a bocce ball court, a horseshoe pit, drinking fountains and other park amenities. It is scheduled for beneficial use in February 2006.

Staff has negotiated a month-to-month lease agreement for use of property owned by the JPB in the amount of \$500 per year to be used as a landscape buffer between the new Fuller Avenue Park and the JPB right-of-way. The \$500 yearly lease charge is considered a nominal fee for use of the property as buffer land and shall be paid by PRNS upon execution of the lease and each year on the anniversary date. The JPB includes member agencies such as San Mateo County Transit District, the City and County of San Francisco, and the Santa Clara Valley Transportation Authority. The JPB also requested reimbursement for its costs of preparing and reviewing the lease document, in the amount of up to \$16,780. Staff has agreed, by a separate reimbursement agreement, to these costs.

ANALYSIS

On July 21, 2005, Council authorized the City Manager to award the construction contract to Lone Star Landscape in the amount of \$395,600 and a construction contingency in the amount of \$40,000. Since the lease agreement with the JPB was not completed at the time of the award of the project, the fencing along the JPB property was not included in the scope. In order to address pedestrian safety and restrict pedestrian traffic between the park and the rail line, staff recommends that the Council approve an increase in the construction contingency in order to install the 6-foot high fencing within the JPB property. Additional staff costs were incurred due to the extensive negotiations with the JPB, the design of the fence, and anticipated construction inspection for the installation.

The lease agreement covers 29,057 square feet of land owned by the JPB. The City will install and maintain a 6 foot high chain link fence on the leased property at the toe of the slope of the rail line. The buffer land will not be dedicated as part of the Fuller Avenue Park.

The JPB has requested two types of indemnification in the lease document. Under federal law, if for some reason the buffer were considered to be a form of parkland, the JPB could be responsible for obtaining replacement land. Under this indemnification, the City is agreeing to accept that risk and to hold the JPB and its constituent agencies harmless from any expenses or costs for replacing or re-occupying the parcel if the parcel is needed in the future for transportation purposes. Additionally, the City is also agreeing to indemnify and hold harmless

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the JPB and its constituent agencies for any damages, injuries, costs, or expenses arising from the City's use of the parcel.

OUTCOME

The approval of the lease agreement, additional construction contingency, and additional project delivery costs will allow completion of the fencing installation prior to the scheduled park opening in February 2006.

PUBLIC OUTREACH

As a result of the Strong Neighborhoods Initiative process, the Greater Gardner Neighborhood Advisory Committee (NAC) identified this property as a potential park site, and prioritized it as number three in their top ten list of desired neighborhood improvements. Over the past three years, staff held two meetings with the Greater Gardner NAC; and two with the North Willow Glen Neighborhood Association. A final community meeting was held in March 2004 to confirm the final master plan. The master plan was approved by the Parks and Recreation Commission on May 12, 2004 and by Council on June 6, 2004. The inclusion to the project scope of the buffer zone and boundary fencing was the result of these neighborhood meetings.

COORDINATION

This memorandum has been coordinated with the San José Redevelopment Agency and the City Attorney's Office.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$66,000
2. COST OF PROJECT:

Project Delivery	\$231,829
Construction	395,600
Contingency	40,000
Additional Contingency	60,000
Additional Project Delivery	<u>6,000</u>
Total Project Costs	\$733,429
Prior Year Expenditures	(85,000)
Remaining Project Costs	\$648,429

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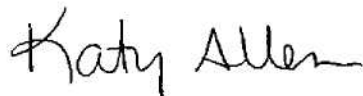
3. **SOURCE OF FUNDING:** 450 - San José Redevelopment Agency
4. **FISCAL IMPACT:** The San José Redevelopment Agency is funding final design and construction of the project. The City will provide for ongoing operations and maintenance costs, assisted by the Adopt-a-Park program. With project completion in February 2006, the estimated operating and maintenance costs will be approximately \$8,400 in 2005-2006. The annual operating and maintenance costs thereafter are estimated to be \$25,600 beginning in 2006-2007, which includes the \$500 annual rental fee to the JPB. Funding for this project was included in the 2005-2006 operating budget.

BUDGET REFERENCE

Fund #	Appn #	Appn Name	Total Appn.	Amt for Contract	2005-2006 Adopted Capital Budget	Last Budget Action (Date, Ord. No.)
Current Funding Available						
450	4894	Fuller Avenue Park	\$582,429	\$395,600	V-626	10/18/2005 Ord No. 27580
Additional Funding Recommended						
450	4894	Fuller Avenue Park	66,000			
Total Funding for Remaining Project Costs			\$648,429	\$395,600		

CEQA

Exempt, PP04-03-089.



KATY ALLEN
Director, Public Works Department



LARRY D. LISENBEE
Budget Director



SARA L. HENSLEY
Director, Parks, Recreation &
Neighborhood Services Department

HONORABLE MAYOR AND CITY COUNCIL

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I hereby certify that there will be available for appropriation from the Redevelopment Agency in the Fiscal Year 2005-2006 monies in excess of those heretofore appropriated, there from said excess being at least \$66,000.

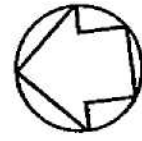
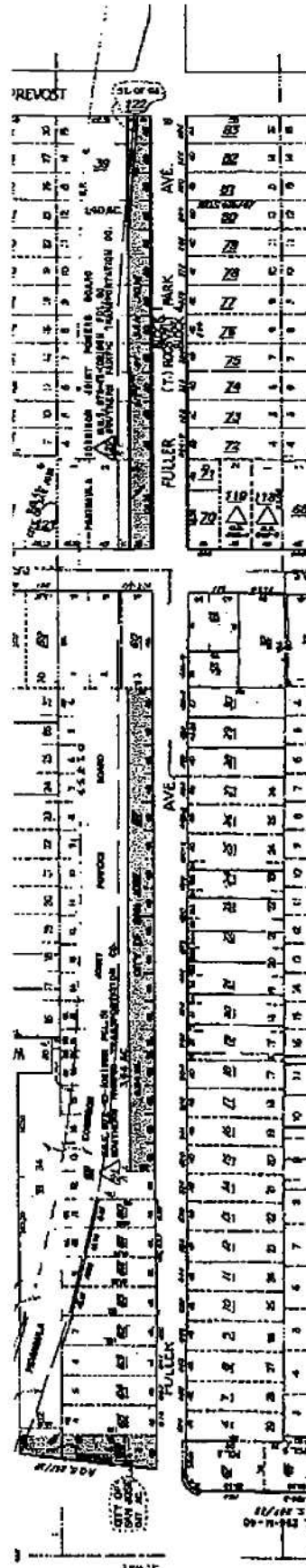
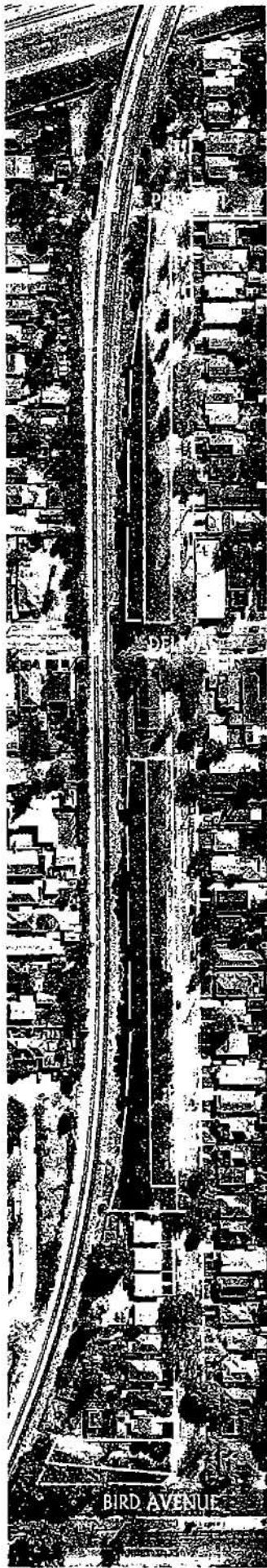
A handwritten signature in black ink, appearing to read "Larry D. Lisenbee", is written over a horizontal line.

LARRY D. LISENBEE
Budget Director

JD:hla

jd103105cc

Attachments



TOE OF UPRR EMBANKMENT
 CITY OF SAN JOSE PROPERTY
 UPRR RIGHT OF WAY AREAS

